THE HON'BLE MR. JUSTICE V.V.S. RAO

FRIDAY, THE 23RD DAY OF DECEMBER, 2005

W.P.No. 27262 of 2005

Between:-

B. Narasimha Reddy, represented by his GPA Holder Sri K. Raj Gopala Rao

--Petitioner

And

The Joint Collector, Ranga Reddy district, Lakdikapool, Hyderabad and seven others.

--Respondents

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:O R D E R:

The petitioner impugnes the proceedings dated 30-07-2005 of the 1st respondent whereby and whereunder the appeal filed by the petitioner under Section 24 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short 'the Act') was dismissed as barred by limitation, admittedly for the reason that the petitioner herein challenged the Occupancy Rights Certificate (for short 'the ORC') issued in favour of respondent Nos. 3 to 8 herein in the year 1976.

It is the case of the petitioner that the land ad-measuring Acs. 12-18 Gts., in survey No.328 and land in survey No.327 ad-measuring Acs. 19-13 Gts., is inam land of one Mohd. Ali. The petitioner and one Balram Kistaiah were allegedly cultivating the land under an agreement of sale and the petitioner was in possession of the property on the date of coming into force of the Act. Be that as it is, the petitioner approached the Revenue Divisional Officer for getting a patta transferred in his name. Such application was filed in November, 2004. When he was advised to obtain the ORC from the Inams Tribunal-cum-the Revenue Divisional Officer (2nd respondent), on inquiries made, he came to know that the ORC was already issued in favour of respondent Nos. 3 to 8 by the 2nd respondent in the year 1976. He thereafter filed appeal, which was rejected by the 1st respondent due to enormous delay of about thirty (30) years.

Learned counsel for the petitioner strenuously contends that as per the provisions of the Act, the person in possession and cultivating the land and as on the date of coming into force of the Act, is alone entitled for the ORC, that respondent Nos. 3 to 8 played fraud and obtained the ORC from the 2nd respondent without even making the petitioner as a party respondent to the proceedings before the 2nd respondent. He contends that in view of Section 17 of the Limitation Act, 1963, the limitation

starts running from the date of the petitioner discovering fraud committed by the respondent Nos. 3 to 8. That the petitioner came to know about the ORC obtained by the contesting respondents in the year November, 2004 and, therefore, the appeal preferred by him is within time. Secondly, he would urge that under Section 24 of the Act, discretion is given to the 1st respondent to entertain appeals against the ORC, if there is a valid cause and the 2nd respondent dismissed the appeal without giving any reasons. He placed strong reliance on the decision of the Supreme Court in **S.P. CHENGALVA RAYU NAIDU v. JAGANNATH** and **A. BALAIAH & OTHERS v. THE DISTRICT COLLECTOR, HYDERABAD DISTRICT AND OTHERS** in support of his contention.

Opposing the writ petition, at the stage of admission, learned Assistant Government Pleader vehemently states that the petitioner has not given any details nor produced any evidence to show his possession and that the 1st respondent is justified in rejecting the appeal, which is filed after a period of about thirty (30) years.

The appeal was presented by the petitioner, admittedly, in 2005 after he was informed by the Revenue authorities about the grant of the ORC in favour of the respondent Nos. 3 to 8. Therefore, there is no infirmity in the impugned order passed by the 1st respondent refusing to entertain the appeal under Section 24 of the Act. Be it noted, Section 24 of the Act enables a person aggrieved by a decision of the Collector under Section 10 of the Act to prefer an appeal to the prescribed authority (the Joint Collector) within a period of thirty (30) days from the date of decision or such further time as the prescribed authority may, for sufficient cause, allow. This court in **A. Balaiah & Others v. The District Collector, Hyderabad & others** (1) supra, interpreted this provision and held that Section 5 of the Limitation Act 1963 has no application, as Section 24 of the Act itself is given power to the authority to entertain the appeal. If a party approaches the Joint Collector with enormous delay, such person has to prove, by cogent evidence, the reasons for filing appeal with such delay and the reasons why he could not file an appeal within thirty (30) days from the date of decision of the Inams Tribunal. In this case, the petitioner states that he is an ill-literate and not conversant with the complicated legal procedure and he was totally involved in the agricultural operations and, therefore, he was not aware of the ORC nor could he file appeal within time. This contention is devoid of any merit.

Admittedly, the respondent Nos. 3 to 8 obtained the ORC from the 2nd respondent presumably after convincing the Inams Tribunal that they are cultivating the land and are in possession of the land. It is unimaginable that respondent Nos. 3 to 8 kept quite after obtaining the ORC and continued the petitioner to cultivate the lands. Secondly, the petitioner has not placed any material before this court or before the 1st respondent to show that for the last thirty (30) years, he is continuing the agricultural operations in the subject land. Further, as per Rule 5 of the Andhra Pradesh (Telangana Area) Abolition of Inam Rules, 1975 (for short 'the Rules'), a person, who claims the ORC, is required to file an application before the Inams Triobunal in Form No.I. The petitioner did not file any application immediately after

coming into force of the Act and, therefore, it is deemed that he waived his rights for the ORC.

The submission of the learned counsel for the petitioner that the impugned order does not disclose any reasons, cannot be accepted. The 1st respondent dismissed the appeal in accordance with Section 24 of the Act holding that the petitioner filed appeal against the ORC issued in 1976 and the same is barred by limitation. The petitioner did not place any material to show that he has produced sufficient material seeking condonation of such delay. A perusal of the memorandum of grounds filed before the 1st respondent, annexed to the writ petition, would show that the petitioner did not plead anything in his favour for condonation of delay.

The writ petition, with the above reasons, is accordingly dismissed. No costs.

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V.V.S. RAO, J

23-12-2005

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